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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,798	10/28/2005	Luis F Angel	5660-01207	5366

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EXAMINER	
YABUT, DIANE D	

ART UNIT	PAPER NUMBER
3734	

NOTIFICATION DATE	DELIVERY MODE
07/01/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/529,798	ANGEL, LUIS F	
	Examiner	Art Unit	
	DIANE YABUT	3734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 April 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *29,31,33,34,38,45,46,48-54,56 and 60-67* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *29,31,33,34,38,45,46,48-54,56 and 60-67* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This action is in response to applicant's amendment received on 04/21/2010.

The examiner acknowledges the amendments made to the claims.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 29, 31, 45-46, 48-51, 53-54, 56, and 60-67 are rejected under 35 U.S.C. 102(e) as being anticipated by **Bui et al.** (U.S. Patent No. **6,629,981**).

Bui et al. disclose a first conduit ("inner catheter") **14**, wherein at least a portion of an endoscope **124** is positionable in the first conduit and the first conduit is sized to allow an endoscope to move through the first conduit (Figures 2 and 15-17; col. 5, lines 42-47), a second conduit ("sheath") **16**, wherein the first conduit is positionable in the

second conduit, wherein the second conduit is configured to contain all of a stent **10** between distal portions of the first and second conduits (Figure 2), wherein the stent comprises a distal portion terminating at a distal end and a proximal portion terminating at a proximal end, wherein the second conduit is movably positionable with respect to the first conduit towards a proximal end of the first conduit to expose the distal end of the stent contained between the distal portions of the first and second conduits during use, prior to the rest of the stent being exposed (Figures 4-5, 15-17). A first lock **110** is configurable to inhibit movement of a first conduit relative to a second conduit during use, and a second lock configurable to inhibit movement of the endoscope **124** relative to the first conduit during use (Figures 11, 15-17, and col. 9, lines 43-52 and col. 11, lines 8-19). At least a portion of the first and second conduits is partially flexible, or configured to inhibit collapse, or comprises a polymer (col. 5, lines 51-64). A distal end **15d** of another conduit between the first and second conduits serves as a stop, as well as a ("pullwire") **32** positioned approximate to the proximal end of the stent between the first and second conduits which inhibits movement of the stent in a proximal direction relative to the first conduit or "retains the proximal end of the stent to the distal end of the outer catheter tube" (Figures 2-3; col. 6, lines 47-59). The elements are considered stops that inhibit movement because they abut and retain the proximal end of the stent to the device.

Bui et al. do not expressly disclose the endoscope being a partially flexible bronchoscope or the stent being a partially flexible, pulmonary stent. However, it would have occurred to one of ordinary skill in the art to modify the device of Bui et al. to be

used in the lungs since the device is used for deploying a stent in any body lumen (see abstract).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Bui et al.** (U.S. Patent No. **6,629,981**) in view of **Wright et al.** (U.S. Pub. No. **2004/0093063**).

Bui et al. disclose the claimed device except for a lock comprising a first grip coupled to at least a portion of the first conduit, and a second grip coupled to at least a portion of the second conduit, and one or more pins coupled to the first conduit, wherein at least one of the pins is configurable to inhibit portions of the first and second conduits from moving transversely to each other wherein at least a portion of the first grip is configurable to inhibit movement of the second grip in a direction toward a proximal end of the stent delivery system beyond the portion of the first grip.

Wright et al. teach a lock comprising a first grip **80** coupled to at least a portion of a first conduit **72**, and a second grip **75** coupled to at least a portion of the second conduit **74**, and a pin **82** coupled to the first conduit, wherein the pin is configurable to inhibit portions of the first and second conduits from moving transversely to each other

wherein at least a portion of the first grip is configurable to inhibit movement of the second grip in a direction toward a proximal end of the stent delivery system beyond the portion of the first grip (Figure 7, paragraph 37). It would have been obvious to one of ordinary skill in the art at the time of invention to provide a lock coupled to the first conduit inhibiting movement of the first and second conduits relative to one another, as taught by Wright et al., to Bui et al. since the lock "prevents premature deployment and reduces the likelihood of an unintentional deployment" as well as "prevents any elongation forces the deployment system could experience."

5. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Bui et al.** (U.S. Patent No. **6,629,981**) in view of **Mikus** (U.S. Patent No. **6,093,194**).

Bui et al. disclose the claimed device, except for a lock configurable to inhibit movement of the first conduit relative to the second conduit during use, wherein the lock comprises a clamp.

Mikus teaches a lock configurable to inhibit movement of a first conduit **70** relative to the second conduit **75** during use, wherein the lock comprises a clamp **77, 78** in order to prevent premature proximal displacement during insertion of the conduits into the body lumen (Figure 7, col. 7, lines 54-67 to col. 8, lines 1-8). It would have been obvious to one of ordinary skill in the art at the time of invention to provide a clamp lock, as taught by Mikus, to Bui et al. in order to prevent premature proximal displacement of the conduits during insertion into body lumen.

6. Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Bui et al.** (U.S. Patent No. **6,629,981**) in view of **Andreas et al.** (U.S. Patent No. **5,250,059**).

Bui et al. disclose the claimed device except for the first conduit comprising a coiled spring.

Andreas et al. teach a first conduit "nose cone" comprising a coiled spring **56** (abstract, Figure 3). It would have been obvious to one of ordinary skill in the art at the time of invention to provide a coiled spring, as taught by Andreas, to Bui et al. in order to be movable without substantial binding and since it was known in the art that coiled springs used with conduits, sleeves, sheaths or catheters act as dampeners or absorb vibration along the length of a catheter.

Response to Arguments

7. Applicant's arguments filed 04/21/2010 have been fully considered but they are not persuasive.

8. Applicant generally argues that Bui does not teach a stop between the first **14** and second **16** conduits that inhibits movement of the stent in a proximal direction since the stent would pass through the conduit **15** in a proximal direction without the distal end of the conduit **15** preventing motion in the proximal direction. The examiner disagrees. The stent would not proximally move through the conduit since it is retained by the distal tip **15d** of the conduit **15** as well as by a pullwire **32** (col. 6, lines 36-59; Figures 2-3), and would rather move proximally only if the conduit **15** itself moved proximally, and therefore Bui still reads on this claim limitation.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIANE YABUT whose telephone number is (571)272-6831. The examiner can normally be reached on M-F: 9AM-4PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Diane Yabut/
Examiner, Art Unit 3734

/TODD E. MANAHAN/
Supervisory Patent Examiner, Art Unit 3734